

PRESS RELEASE

August 28, 2006

**\$9.9 MILLION SETTLEMENT OBTAINED
BY THE UNITED STATES ATTORNEY'S OFFICE AND
NEW YORK STATE DEPARTMENT OF
TAXATION & FINANCE, WITH
HAROLD LEVINSON AND ASSOCIATES**

United States Attorney Terrance P. Flynn announced today the filing, in the U.S. District Court for the Western District of New York, of an Order of Forfeiture signed by Chief Judge Richard J. Arcara forfeiting money obtained from **HAROLD LEVINSON & ASSOCIATES** (HLA), a Long Island cigarette stamping agent and cigarette wholesaler, resolving a joint investigation by the United States Attorney's Office, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the New York State Department of Taxation and Finance of the company's alleged illegal sale of untaxed cigarettes to Native American businesses. On June 16, 2006 a stipulation for settlement and forfeiture complaint was filed with the Court. As part of the agreement, HLA agreed to pay a total of \$9,908,911.83 in consideration for the stipulated settlement. The amount of \$5,053,545 has been posted by HLA as the defendant property named in the Complaint and has been forfeited by HLA to the United States as proceeds from HLA's alleged distribution of contraband (unstamped) cigarettes to Sovereign Wholesale Supply Company and C&J Buying Group during the period January 1, 2001 through April 30, 2002. Also, the remaining amount of \$4,855,366.83, according to the stipulated settlement, constitutes New York State excise taxes, sales taxes and interest due on the sales of unstamped cigarettes and has been paid to the New York State Department of Taxation and Finance by HLA.

HLA is a cigarette stamping agent with offices in Farmingdale, New York, on Long Island. This company sells cigarettes and convenient store items throughout the North East and employs more than 400 people.

The Complaint alleges that between January 2001 and April 2002, HLA sold untaxed cigarettes to Sovereign Wholesale Supply Company, a Native American business located on the Allegheny Indian Reservation near Salamanca, New York, and C&J Buying Group, a Native American company located on the Cattaraugus Indian Reservation near Irving, New York. The Complaint further alleges that HLA shipped the cigarettes by Rainbow Bear Trucking, a company which was not authorized to transport unstamped cigarettes in New York State, for delivery to Sovereign Wholesale Supply and to C&J Buying Group. However, the cigarettes were instead diverted to other states. The use of Rainbow Bear Trucking created a taxable event. HLA was therefore required by law to affix tax stamps to the cigarettes. It is alleged that HLA failed to do so and therefore violated the federal contraband cigarette statute .

The stipulated settlement also provides for the selection by the United States of an Independent Compliance Officer, paid by HLA, who will undertake audit and investigative procedures to ensure that HLA complies with local, state, and federal laws governing the distribution of untaxed cigarettes. The agreement provides for the Independent Compliance Officer's term to be 5 years. The agreement was approved today by Chief Judge Arcara as part of today's order.

The case was investigated by Special Agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE), under the supervision of Resident Agent in Charge David P. DeJoe, and Agents

of the New York State Department of Taxation and Finance, Bureau of Tax Enforcement, under the supervision of Deputy Commissioner Peter Farrell, as well as the Internal Revenue Service-Criminal Investigation Division, under the direction of Special Agent In Charge Anne Marie Coons. United States Attorney Terrance P. Flynn thanked each of them, as well as Andrew Eristoff, Commissioner of the New York State Department of Taxation and Finance, for his cooperation in this joint endeavor. He also commended New York State Tax Enforcement Senior Investigator Patrick Simet and Forensic Auditor Nancy Wilson, ATFE Special Agent Steve Dickey and Forensic Auditor William Maslakowski, and IRS Special Agent John Dickey for their exemplary efforts during the investigation. The case was prosecuted by Assistant United States Attorneys Charles B. Wydysh, Assistant U.S. Attorney, Richard D. Kaufman, Chief, U.S. Attorney's Asset Forfeiture Unit, and William J. Knapp, Asset Forfeiture Unit.